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**610.01 Introduction**

This chapter summarizes the environmental requirements affecting WSDOT during a project's construction phase. Commitments contained in policy guidance, interagency agreements, NEPA/SEPA documents and permits and approvals are included in contract documents for implementation during construction. The Standard Specifications are the basis of the contract between WSDOT and the contractor. Special provisions are written into each contract to either amend or replace part of the Standard Specifications based on the judgment of the Design Engineer.

**Chapter 690** reviews how environmental commitments apply during the construction process. These include:

- Contractor and WSDOT responsibilities for commitments
- Monitoring for environmental compliance
- Ensuring appropriate pass-off to the Maintenance Office for long-term maintenance of some commitments

These requirements will be summarized in the Commitment Tracking System as it is developed.

Environmental commitments are generated from many different documentation and permitting efforts. Details on those efforts can be found in **Part 4** and **Part 5**.

**(1) Correlation with WSDOT Construction Manual**

WSDOT's *Construction Manual* (M 41-01) covers all aspects of construction management, including environmental compliance, and has been referenced throughout in this section. However, it should be noted that this EPM represents WSDOT's most current information on federal, state, and local environmental requirements. The *Construction Manual* should be consulted for overall WSDOT construction procedures and requirements. For a specific project, the contract specifications take precedence.

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\* Web sites and navigation referenced in this chapter are subject to change. For the most current links, please refer to the online version of the EPM, available through the ESO home page: <http://www.wsdot.wa.gov/environment/>

## **(2) FHWA Requirements**

Federal funds for construction of highways, roads, streets and bridges and other transportation facilities are subject to federal laws, Executive Orders, regulations, and agreements.

The federal government provides transportation funding to Washington State through the Federal Highway Administration (FHWA). These funds are subject to applicable federal law, Executive Orders, regulations, and agreements.

FHWA approves all programs for federal highway funds and, where Interstate funds are involved, approves individual project plans and specifications. FHWA may conduct final inspection to verify substantial compliance with the approved Federal aid program.

FHWA provides oversight of WSDOT work on some projects, and has delegated that responsibility to WSDOT or others. In accordance with the Construction Monitoring Plan, which is part of the WSDOT/FHWA stewardship agreement, the project type and size determine whether FHWA, the Construction Office, or Region will conduct the inspections and reviews necessary to verify adequate compliance with federal rules, regulations and procedures.

See [Section 690.02](#) for FHWA's role in final inspection and approval of highway projects.

## **610.02 Policy Guidance**

The most important policy guidance is the Environmental Policy Statement signed by Secretary Douglas MacDonald on September 26, 2001. That policy makes it clear WSDOT will comply with all applicable environmental laws, regulations and other commitments and that it is the responsibility of each individual employee to make sure that happens. The policy statement is online at:

 <http://www.wsdot.wa.gov/environment/envpolicystatement.htm>

## **610.03 Interagency Agreements**

This section lists the interagency agreements that have provisions applicable to construction. [Chapter 620](#) references agreements applicable to each element of the environment. Further information on agreements is found in [Chapter 420](#) through [Chapter 470](#).

[Appendix E](#) includes a list of all of WSDOT's environmental interagency agreements, in the form of Memoranda of Understanding (MOUs), Memoranda of Agreement (MOAs) or Implementing Agreements. [Appendix E](#) also includes a matrix and an accompanying narrative showing which agreements have provisions applicable to construction.

These interagency agreements are accessible on line via the following Environmental Services Office link:

 <http://www.wsdot.wa.gov/environment/compliance/agreements.htm>

**(1) Compliance Implementing Agreement**

The November 2004 Compliance Implementing Agreement between WSDOT and Ecology is designed to assist in obtaining and maintaining WSDOT compliance with state water quality standards, including compliance with Section 401 Certifications, Section 402 NPDES permits, and other Ecology Orders and approvals. That agreement stipulates the following:

- All project commitments are clearly communicated to contractor, construction project office staff, and supporting design offices.
- All sensitive areas are fenced as a first order of work.
- Inspectors be assigned to monitor for environmental compliance.
- WSDOT PE notifies Ecology prior to beginning work.
- PEs must consult with environmental inspector to ensure work in sensitive areas is compliant.
- WSDOT must develop a commitment tracking system.
- Ensure all WSDOT commitments have been completed prior to completion of the project and commitments with long-term maintenance needs have been communicated to Maintenance and Operations.

**(2) Implementing Agreement on Water Quality Standards**

The February 1998 Implementing Agreement between Ecology and WSDOT regarding compliance with state surface water quality standards, currently being revised, is intended for use by WSDOT and WSDOT contractors. The agreement covers general conditions for concrete work, erosion control, hazardous spill prevention and control, spill reporting, and specific provisions for erosion control in new roadway and bridge construction projects. (See [Section 431.04.](#))

Provisions in the 1998 agreement applicable to construction are:

- Notify Ecology prior to starting work on a project that is large, contentious or when a significant amount of work in the water will take place (so Ecology can respond to any citizen complaints).
- Review conditions with selected contractor. Copy of agreement on the job site at all times.

**(3) MOA Concerning Work in State Waters**

This June 2002 agreement between WSDOT and WDFW replaces previous agreements including Compliance with the Hydraulic Code (8/90), Fish Passage Guidelines – Culvert Installations (8/90, and Work in State Waters (12/96). See [Section 436.04.](#)

The MOA describes how WSDOT and WDFW will cooperate to ensure that state transportation projects protect fish life and habitats, and ensure consistent and uniform application of RCW 77.55 (construction in state waters) and WAC 220-110 (hydraulic code rules).

Provisions applicable to construction are:

- WSDOT will train project inspectors on how to monitor projects for HPA compliance.

- If project design changes or circumstances arise requiring change in design or construction, WSDOT contacts WDFW to discuss potential modifications to HPA.

**(4) *Implementing Agreement – Wetlands Protection and Management***

This July 1993 agreement between WSDOT and Ecology clarifies and promotes interagency coordination in wetland protection and management. The two agencies determine policies of mitigation, preservation, mitigation banking and training programs. See [Section 437.04](#).

Provisions applicable to construction:

- Pre-construction conference – as needed to discuss construction techniques for wetland creation, restoration or enhancement. Primarily for benefit of contractor.

**(5) *Implementing Agreement – Hazardous Waste Management***

In this May 2000 agreement, Ecology and WSDOT agree to cooperate in issues related to hazardous waste management and reduction, site remediation, and regulatory compliance. WSDOT commits itself to full compliance with hazardous waste management and cleanup laws and regulations. See [Section 447.04](#).

Provisions applicable to construction:

- If an unanticipated leaking underground storage tank (LUST) is encountered during construction, WSDOT will follow Ecology guidance in *Remediation of Releases from Underground Storage Tanks*.
- If there is an imminent threat to public health or environment due to site contamination, WSDOT will use resources such as an on-call hazardous waste contractor to stabilize the situation.
- WSDOT will seek to minimize the use and generation of hazardous materials in its construction activities and those of its contractors.

**(6) *MOU on Highways over National Forest Lands***

This March 2002 MOU establishes procedures for coordinating transportation activities on National Forest lands. See [Section 455.04](#).

Provisions applicable to construction:

- WSDOT will inform USFS of project advertisement and award.
- Significant changes in ROW during construction will require an amendment to the recorded easement deed.
- WSDOT will notify and obtain approval from USFS for any changes that will affect national forest lands.
- WSDOT will notify USFS when project nears completion; USFS will indicate if they want to participate in the final review.

## **610.04 Permits and Approvals**

Resource and regulatory agencies responsible for water quality, wildlife and fisheries, flood control, land development, forestry, and other environmental issues may need to be consulted during the construction process.

Each permit or approval issued by these agencies is an agreement between WSDOT and the agency on how WSDOT will conduct its work. The contract is an agreement between WSDOT and the contractor on getting the work done. The Project Engineer needs to monitor contractors to ensure that the conditions of all permits are followed and that all commitments are implemented. Without “due diligence,” WSDOT may be legally liable for damages if conditions of permits and interagency agreements are not met. Not fulfilling environmental commitments can have a very negative impact on a project’s scope, schedule and budget. The *Construction Manual* addresses the relationship between the Project Engineer, inspectors, contractors, and resource agency staff. In general the Project Engineer should ensure that WSDOT and its contractors fulfill any commitments made on the part of the project.

When the contractor is required specifically by the contract to obtain approval from other agencies, the Project Engineer shall confirm that approval was received by obtaining a copy of the approval. The Project Engineer or inspector should accompany any representative of the regulatory agency who visits the project site.

When a contract includes work on Tribal lands, the contract should include a special provision alerting the contractor of special requirements.

See [Chapter 620](#) for specific permits likely to have construction-related conditions for each element of the environment. Detailed guidance on all permits is found in [Chapter 520](#) through [Chapter 550](#); permits and approvals are listed in [Appendix F](#). (See WSDOT’s *Construction Manual*, M 41-01, Chapter 1, Sections 1.7 and 2.2.)

## **610.05 WSDOT Roles and Responsibilities**

### **(1) Headquarters**

#### **(a) Highway Construction Management**

The Headquarters Construction Office strives for consistent, cost-effective high quality construction through direct support of WSDOT’s regional construction program. The Construction Office coordinates the development of policies and standards, provides training, guidance, oversight, technical expertise and advocacy; introduces innovation; and coordinates and shares information on construction issues. (See WSDOT’s *Construction Manual*, M 41-01, Section 1-1.4.)

The State Construction Engineer is responsible for all WSDOT contract construction projects, except those executed by the Director of Washington State Ferries. The State Construction Engineer is responsible for providing guidance and direction to Regional and Headquarters construction personnel. He or she establishes WSDOT policy relative to inspection and documentation and ensures uniform interpretation and enforcement of the Standard Specifications and contract provisions throughout the state. The State Construction Engineer is assisted by principal assistants in Administration, Roadways, and Bridges.

**Construction Administration** – The Construction Engineer, Administration, sets requirements for contracting, policy, and responding to questions from the Regions on all issues pertaining to Division 1 of the Standard Specifications and Chapters 1 and 10 of the *Construction Manual*.

**Roadways** – The Construction Engineer, Roadways, is responsible for all highway construction such as grading, drainage, surfacing, paving, signing, guard rails, illumination, traffic signals, landscaping, and rest areas.

**Bridges** – The Construction Engineer, Bridges, is responsible for bridges and related structural construction, engineering and contract administration.

**(b) Environmental Services Office**

Environmental Services Office (ESO) staff offers expertise in environmental issues as a resource to Headquarters and Regional personnel during project construction. While project-specific questions should always be addressed first to regional environmental staff, ESO can provide regulatory, technical, advocacy, training, and logistical support.

**(2) Regional Offices**

Regional Construction Offices are responsible for delivering the construction phase of the WSDOT's projects. This includes ensuring that projects fulfill commitments made during Design and PS&E as well as complying with WSDOT's Standard Specifications, General Special Provisions and generally applicable laws.

Regional environmental offices provide technical assistance, regulatory interpretation and any post-Advertisement environmental permitting and compliance work the project may need. Each Region has a 24-hour environmental contact to provide that support. Each Region has its own program to support Construction Offices, outlined in its Construction Compliance Plan. Those plans can be found at:

 <http://www.wsdot.wa.gov/environment/compliance/default.htm#CompPlans>

**(3) Ferries, Rail, and Aviation**

**(a) Washington State Ferries**

Ferry facility construction and maintenance are the responsibility of the Director of WSF.

**(b) Rail**

Construction and maintenance of rail facilities and disposal of surplus property are the responsibility of Burlington Northern and other railway companies, as owners of the facilities.

**(c) Aviation**

Aviation facility construction and maintenance are the responsibility of the Director of WSDOT's Aviation Division.

## **610.06 Exhibits**

None.